

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

ANTHONY PELAYO,

Defendant.

CASE NO. CR18-217RSM

ORDER DENYING FOURTH MOTION
FOR RECONSIDERATION

This matter comes before the Court on the Fourth Motion for Reconsideration filed by Defendant Anthony Pelayo. Dkt. #640. Mr. Pelayo moves again for reconsideration of the Court's Order denying his Motion for Review of Detention Order, Dkt. #381, issued on June 26, 2020, nearly six months ago. The Court has ruled on three prior Motions for Reconsideration filed by Mr. Pelayo, considering arguments that the Court erred in its original ruling, generalized concerns about the spread of the COVID-19 pandemic, and specific concerns about the conditions and spread of the virus at the FDC where Mr. Pelayo is housed.

Motions for reconsideration are disfavored. CrR 12(b)(13). The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence. *Id.*

1 The Court has previously stated:

2 There is a presumption of detention in this case because Defendant
3 is facing a ten-year mandatory minimum term of imprisonment.
4 Even if Defendants' new COVID-19 information was not
5 speculative, the Court finds that Defendant's age and lack of any
6 underlying medical conditions would not make him particularly
7 vulnerable or otherwise part of a high-risk group. This is a
8 significant point. Although the parties can debate whether or not the
9 new coronavirus is or will be spreading at the FDC, the Court is not
10 convinced that this constitutes a significant enough risk to this
11 Defendant's health to warrant release given the initial bases for
12 Judge Tsuchida to order detention. See Dkt. #151.

13 Dkt. #381 at 3.

14 In the instant Motion, Mr. Pelayo submits the declarations of several detainees as well as
15 himself discussing the conditions at the FDC and failures to adequately protect Mr. Pelayo from
16 contracting COVID-19. Dkts. #640-1 through #640-4. He raises essentially the same arguments
17 about access to counsel and discovery that have already been addressed by the Court in prior
18 Orders.

19 The Court is disturbed by the risks facing Mr. Pelayo and other detainees at the FDC.
20 However, given the standard for a motion for reconsideration, the Court's prior rulings in this
21 case, and the burden on Defendant, the Court concludes that there is no reason to deviate from
22 the Court's analysis above. The Court continues to find "that Defendant's age and lack of any
23 underlying medical conditions would not make him particularly vulnerable or otherwise part of
24 a high-risk group," and "the Court is [still] not convinced that this constitutes a significant enough
25 risk to this Defendant's health to warrant release given the initial bases for Judge Tsuchida to
26 order detention." The Court urges Mr. Pelayo to absorb this finding of the Court, which has been
27 repeated to him several times now. The Court further finds that the conditions at the FDC related
to lockdowns and limiting access to the law library and telephones are designed to protect Mr.

1 Pelayo and other more at-risk inmates and, although they may be extremely inconvenient, do not
2 warrant the requested relief of release in this case.

3 Having reviewed the briefing, along with the remainder of the record, the Court hereby
4 finds and ORDERS that the Fourth Motion for Reconsideration by Defendant Anthony Pelayo,
5 Dkt. #640, is DENIED.

6 DATED this 13th day of January, 2021.
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10 RICARDO S. MARTINEZ
11 CHIEF UNITED STATES DISTRICT JUDGE
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